



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866**

August 1, 2013

By Electronic Mail

William H. Hyatt, Jr., Esq.
K&L Gates LLP
One Newark Center, Tenth Floor
Newark, NJ 07102-5285

Re: Diamond Alkali, Lower Passaic River Study Area – CSO/SWO Investigation

Dear Bill:

This will respond to your letter dated July 5, 2013 on behalf of the Cooperating Parties Group (“CPG”), concerning the Combined Sewer Overflow/Stormwater Outfall (“CSO/SWO”) investigation that Occidental Chemical Corporation (“Occidental”) is performing.

Occidental collected Phase I samples at the Clay Street CSO on June 10 and July 1, 2013. When we last corresponded about the CSO/SWO investigation in April 2013, EPA was anticipating data from Phase I would be available in August 2013, and that is still the case. Phase II will proceed thereafter. We will forward an updated schedule when Phase I is completed.

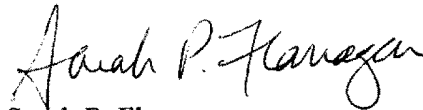
As your letter notes, EPA does not expect the CPG to postpone work on the Remedial Investigation/Feasibility Study (“RI/FS”) while awaiting data from the CSO/SWO study. Instead, as data become available from each CSO or SWO sampled during 2014-2015, they will be provided to you on an on-going basis for incorporation into the RI/FS or remedial design, as appropriate. EPA has already established based on existing data that the CSOs and SWOs are minor contributors of COPCs and COPECs, since their flows are relatively minor compared to those of the Upper Passaic River and Newark Bay, and their contaminant concentrations are low as compared to the surface sediments of the Lower Passaic River main stem. Nevertheless, even with the CPG using alternate inputs for the models, the additional data from the CSO/SWO study could be useful to augment existing information, and/or in remedial design. Thus, EPA does not plan to terminate the CSO/SWO investigation.

You also note that the CPG is not obligated to perform the CSO/SWO investigation, and ask that EPA terminate the use of the RI/FS Trust Fund as financial assurance for the CSO/SWO investigation.

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We will evaluate this request and may seek additional information from the CPG and from Occidental as we do so.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Sarah P. Flanagan". The signature is fluid and cursive, with the first name "Sarah" being more prominent.

Sarah P. Flanagan
Assistant Regional Counsel

Enclosure

cc: Carol Dinkins, Esq.

R. Basso, ERRD
S. Vaughn, ERRD
A. Yeh, ERRD
P. Hick, ORC